1:Barnes E-5 (1946-1949)1954 FRS Ngoni FRS
Mpezeni

The unwillingness of the moral sanctions behind the court exists in the long run in maintaining the courts as courts of equity, despite the contrary tendencies generated by political manipulation. This is also partly due to the relatively poor physical sanctions directly available to the court. If a man is actually inside the brick court building he can be handcuffed and taken off to the Administration in the township. But if a man A has been told by the court to bring £1 next Friday to hand over to B, then either he can run away, or he can offer B 5s. out of court and hope to hear no more about the matter; or he can persuade B that it would be wiser not to press his claim. It may be months before B can persuade the court to send one of its messengers to bring A in by force, and by that time anything may have happened, and even the court may have changed its mind about the case.

It is the Administration which possesses physical sanctions. However, little moral support is given by the Black section of society to the exercise of these sanctions. The Native Court has to utilize the power of the Administration when it sentences a man to imprisonment, but this punishment is not regarded as a proper penalty for the offence for which the man is committed. If a man is ordered by the court to pay a fine or damages and refuses to do so, or maintains that he has no money, the court will order him to be imprisoned in the Administration's jail. When he comes out again, he is still under an obligation to pay. Associated with this use of prison is the lack of any stigma attached to having been, or actually being, in prison. Prisoners are allowed a good deal of liberty and at one time were sometimes allowed to go home for a visit. Unskilled prisoners are employed in the disposal of sewage in the township, and it is sometimes said that it is only this that keeps people out of prison. Clerks and others who are sent to prison are allowed considerable freedom and are sometimes to be seen visiting their friends in town. There is good technical training available for prisoners, and many craftsmen owe their start in their profession to a stay in prison. Prison is regarded as essentially a foreign institution introduced by the Whites, to be manipulated if possible by the Native Court, but in no way connected with making people suffer for their crimes.

The Administration is able to use physical sanctions not only against culprits but also to retain in the township possible witnesses in cases under investigation. For this reason, and also because it is likely to investigate incidental irregularities which may come to light in the course of an inquiry, people try to avoid becoming involved with it. This affects their actions where in the abstract